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SENATE BILL 2251

By Rochelle

AN ACT to amend Tennessee Code Annotated, Title 65, Chapter 25, relative to the authority of electric cooperatives to provide telecommunication services.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 65, Chapter 25, is amended by adding the following language as a new, appropriately designated section:

Section 65-25-2___. Telecommunications Services.

(a) Every cooperative has the power and is authorized, acting through its board of directors, to acquire, construct, own, improve, operate, lease, maintain, sell, mortgage, pledge or otherwise dispose of any system, plant or equipment for the provision of telephone, telegraph, telecommunications services, or any other like system, plant, or equipment within and/or without the service area of such cooperative in compliance with title 65, chapters 4 and 5, and all other applicable state and federal laws, rules and regulations, notwithstanding 65-4-101(a)(5) or any other provision of this code or of any private act. To the extent that any cooperative provides any of the services authorized by this section, such cooperative shall be subject to regulation by the Tennessee regulatory authority

in the same manner and to the same extent as other certificated providers of telecommunications services, including, without limitation, rules or orders governing anti-competitive practices, and shall be considered as and have the duties of a public utility, as defined in §65-4-101, but only to the extent necessary to effect such regulation and only with respect to such cooperative's provision of telephone, telegraph and communication services.

(b) A cooperative providing any of the services authorized by subsection (a) hereof shall not provide subsidies for such services. Notwithstanding the limitations set forth in the preceding sentence, a cooperative providing such services shall be authorized to:

(1) Dedicate a reasonable portion of the electric plant to the provision of such services, the costs of which shall be allocated to such services for regulatory purposes;

(2) Lend funds, at a rate of interest not less than the highest rate then earned by the cooperative on invested electric plant funds, to acquire, construct, and provide working capital for the system, plant, and equipment necessary to provide any of the services authorized under subsection (a) hereof; provided, that such interest costs shall be allocated to the cost of such services for regulatory purposes.

(c)(1) To the extent that it provides any of the services authorized by subsection (a) hereof, a cooperative has all the powers, obligations and authority granted entities providing telecommunications services under applicable laws of the United States or the state of Tennessee. To the extent that such authority and powers do not conflict with the provisions of title 65, chapter 4 or 5, and any rules, regulations, or orders issued thereunder, a cooperative providing any of

the services authorized by subsection (a) hereof has all the authority and powers with respect to such services as are enumerated in this chapter.

(2) Notwithstanding the authorization granted in subsection (a) hereof, a cooperative shall not provide any of the services authorized by subsection (a) unrelated to its electric services within the service area of an existing telephone cooperative with fewer than one hundred thousand (100,000) total lines organized and operating under the provisions of title 65, chapter 29, and therefore shall adhere to those regulations of the 1995 Tennessee Telecommunications Act and rules of the Tennessee Regulatory Authority, which are applicable to the telephone cooperatives, and specifically §§ 65-4-101 and 65-29-130.

(d) For regulatory purposes, a cooperative shall allocate to the costs of providing any of the services authorized by subsection (a) hereof:

(1) An amount for attachments to poles owned by the cooperative equal to the highest rate charged by the cooperative to any other person or entity for comparable pole attachments; and

(2) Any applicable rights-of-way fees, rentals, charges, or payments required by state or local law of a non-governmental corporation that provides the identical services.

(e)(1) Nothing in this part shall be construed to allow a cooperative to provide any service for which a license, certification, or registration is required under title 62, chapter 32, part 3.

(2) Nothing in this part shall allow a cooperative to provide any service for which a license, certification, or registration is required under title 62, chapter 32, part 3, or to operate a cable system as defined by §

7-59-201(2), except as permitted by Chapter 430 of the Public Acts of 1999, or to provide pager service.

(f) This part supersedes any conflicting provisions of law. Tennessee Code Annotated, Section 65-25-205(13) is hereby repealed.

SECTION 2. This act shall take effect upon becoming a law, the public welfare requiring it.